IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

WP(C).No. 9386 of 2007(P)

PETITIONER:

SURESH KUMAR,SOBHIT HOUSE,MANGADU CHERRY
MANGADU VILLAGE,KOLLAM.

BY ADV. SRI.P.B.SURESH KUMAR

RESPONDENTS:

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1. STATE OF KERALA REPRESETNED BY THE CHIEF SECRETARY TO GOVERNMENT,GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. SECRETARY TO GOVERNMENT,REVENUE (S) DEPARTMENT,GOVERNMENT OF KERALA,THIRUVANANTHAPURAM

3. THE DISTRICT COLLECTOR,KOLLAM.

4. DEPUTY COLLECTOR (RR) KERALA FINANCIAL CORPORATION,THIRUVANANTHAPURAM.

5. KERALA FINANCIAL CORPORATION,REPRESENTED BY ITS MANAGING DIRECTOR,KERALA FINANCIAL CORPORATION,THIRUVANANTHAPURAM,

6. N.KANAKA BOSE,MULAMOOTIL HOUSE, MANGADU,KULLIKOLLOOR,KOLLAM.

BY ADV. SRI.A.A.ABUL HASSAN, SC, KFC
ADV. SHRI.P.N.SANTHOSH, GOVERNMENT PLEADER
SRI.V.V.RAJA
SRI.R.RENJITH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) No. 9386/2007

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE ORDER OF CONFIRMATION OF SALE OF IMMOVABLE PROPERTY ISSUED TO THE PETITIONER BY THE FOURTH RESPONDENT DATED 01/11/1999.

P2 : COPY OF THE SALE CERTIFICATE ISSUED TO THE PETITIONER BY THE FOURTH RESPONDENT DATED 17/12/1999.

P3 : COPY OF THE TAX RECEIPT ISSUED BY THE VILLAGE OFFICER, MANGADU DATED 01/02/2000.

P4 : COPY OF THE COMMUNICATION ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER DATED 15/02/2007.

P5 : COPY OF THE ORDER PASSED BY THE GOVERNMENT AS G.O.(Rt.) NO. 3303/06/RD DATED 05/07/2006.

P6 : COPIES OF THE PHOTOGRAPHS OF THE PROPERTY TAKEN BY THE PETITIONER AFTER THE INSTITUTION OF THE WRIT PETITION.

P6(a) : COPIES OF THE PHOTOGRAPHS OF THE PROPERTY TAKEN BY THE PETITIONER AFTER THE INSTITUTION OF THE WRIT PETITION.

P7 : COPY OF SALE DEED NO. 162/1981 DATED 12/01/1981.

P8 : COPY OF SALE DEED NO.158/1993 DATED 22/01/1993.

P9 : COPY OF SALE DEED NO.194/2000 DATED 28/01/2000.

RESPONDENT'S EXHIBITS

R6(a) : COPY OF THE COMMUNICATION ISSUED ASKING THE 6TH RESPONDENT TO APPEAR BEFORE THE K.F.C. ON 09/09/1999.

R6(b) : COPY OF THE COMMUNICATION ISSUED THROUGH A TELEGRAM, ASKING THE 6TH RESPONDENT TO MEET THE GM ON 18/12/1999.

R6(c) : COPY OF THE REPRESENTATION DATED 17/01/2000 SUBMITTED BEFORE THE MINISTER FOR REVENUE.

R6(d) : COPY OF THE REPRESENTATION DATED 29/01/2000 SUBMITTED BEFORE THE DISTRICT COLLECTOR, KOLLAM.

R6(e) : COPY OF THE COMMUNICATION DATED 31/05/2000 ISSUED BY THE DISTRICT MANAGER, KFC TO THE DISTRICT COLLECTOR, KOLLAM.

R6(f) : COMMUNICATION DATED 13/12/2000 ISSUED BY THE DISTRICT COLLECTOR TO THE GOVERNMENT.

R6(g) : COPY OF THE COMMUNICATION DATED 17/11/2003 ISSUED BY THE PRINCIPAL SECRETARY TO GOVERNMENT.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 9386 of 2007

Dated, this the 10th day of July, 2007

J U D G M E N T

Petitioner is challenging Ext.P5 order, whereunder Government has set aside sale of property to the petitioner in recovery proceedings. I have heard learned counsel appearing for petitioner, learned Government Pleader and learned counsel appearing for 6th respondent, who was the owner of the property. While the case of the petitioner is that revenue sale was properly made and the said sale was confirmed and petitioner has given possession of the property, the case of the 6th respondent is that sale is malafide and manipulated by the revenue authorities in collusion with the petitioner. Strangely, the property sold for Rs.1.25 lakhs is of an extent of 65 cents. Even though the matter is argued on merits in this Court, I feel, it should go back to the Commission or Government for their decision because Government canceled the sale in favour of the petitioner, without notice and without hearing the petitioner. In the circumstances, Ext.P5 is vacated with direction to 2nd respondent to reconsider 6th

respondent's application for setting aside the sale afresh after giving detailed hearing to 6th respondent and also the petitioner, and after verifying the records pertaining to sale of the property. I make it clear that if sale was effected in a clandestine manner or in other irregular way, 2nd respondent should initiate disciplinary action against the persons involved. Since petitioner has a case that part of the properties were again sold to somebody else, 2nd respondent will hear such person also and pass final orders within two months from the date of production of a copy of this judgment by either of the parties. If 2nd respondent is not the Statutory Authority to hear appeal and Land Revenue Commissioner is the Authority, 2nd respondent should transfer the file to the Land Revenue Commissioner, who will follow the above directions, as if those are issued to him. No further engagement or major improvement should be done in the property until decision by the Authority concerned as above.

This writ petition is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg